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10 **UNITED STATES DISTRICT COURT**
11 **SOUTHERN DISTRICT OF CALIFORNIA**

<p>12 Rebecca Stacy, Individually and 13 on behalf of All Others Similarly 14 Situated,</p> <p>15 Plaintiff,</p> <p>16 v.</p> <p>17 Renewable Energy Center, LLC 18 d.b.a. American Pro Energy,</p> <p>19 Defendant.</p>	<p>20 Case No.: '17CV0755 CAB WVG</p> <p>21 <u>CLASS ACTION</u></p> <p>22 CLASS ACTION COMPLAINT 23 FOR DAMAGES AND 24 INJUNCTIVE RELIEF 25 PURSUANT TO THE 26 TELEPHONE CONSUMER 27 PROTECTION ACT, 47 U.S.C. § 28 227 ET SEQ.</p> <p>Jury Trial Demanded</p>
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INTRODUCTION

1. Rebecca Stacy (referred to individually as “Ms. Stacy” or “Plaintiff”), brings this class action for damages, injunctive relief, and any other available legal or equitable remedies, resulting from the illegal actions of RENEWABLE ENERGY CENTER, LLC, b.d.a. AMERICAN PRO ENERGY, (referred to as



1 “Defendant”), in negligently, knowingly, and/or willfully contacting Plaintiff
2 on Plaintiff’s cellular telephone, in violation of the Telephone Consumer
3 Protection Act, 47 U.S.C. § 227, et seq., (“TCPA”), thereby invading
4 Plaintiff’s privacy. Plaintiff alleges as follows upon personal knowledge as to
5 herself and her own acts and experiences, and, as to all other matters, upon
6 information and belief, including investigation conducted by her attorneys.

7 2. The TCPA was designed to prevent calls like the ones described within this
8 complaint, and to protect the privacy of citizens like Plaintiff. “Voluminous
9 consumer complaints about abuses of telephone technology – for example,
10 computerized calls dispatched to private homes – prompted Congress to pass
11 the TCPA.” *Mims v. Arrow Fin. Servs., LLC*, 132 S. Ct. 740, 744 (2012).

12 3. In enacting the TCPA, Congress intended to give consumers a choice as to
13 how creditors and telemarketers may call them, and made specific findings
14 that “[t]echnologies that might allow consumers to avoid receiving such calls
15 are not universally available, are costly, are unlikely to be enforced, or place
16 an inordinate burden on the consumer.” TCPA, Pub.L. No. 102-243, § 11.
17 Toward this end, Congress found that:

18 Banning such automated or prerecorded telephone calls to the
19 home, except when the receiving party consents to receiving the
20 call or when such calls are necessary in an emergency situation
21 affecting the health and safety of the consumer, is the only
22 effective means of protecting telephone consumers from this
23 nuisance and privacy invasion.

24 *Id.* at § 12; *see also, Martin v. Leading Edge Recovery Solutions, LLC*, 2012
25 WL 3292838, at *4 (N.D. Ill. Aug. 10, 2012) (citing Congressional finding
26 on TCPA’s purpose).

27 4. Congress also specifically found that “the evidence presented to the Congress
28 indicates that automated or prerecorded calls are a nuisance and an invasion

1 of privacy, regardless of the type of call [...].” *Id.* At §§ 12-13. *See also,*
2 *Mims*, 132 S. Ct. at 744.

- 3 5. As Judge Easterbrook of the Seventh Circuit explained in a TCPA case
4 regarding calls to a non-debtor similar to this one:

5 The Telephone Consumer Protection Act [...] is well known for its
6 provisions limiting junk-fax transmissions. A less litigated part of
7 the Act curtails the use of automated dialers and prerecorded
8 messages to cell phones, whose subscribers often are billed by the
9 minute as soon as the call is answered – and routing a call to
10 voicemail counts as answering the call. An automated call to a
landline phone can be an annoyance; an automated call to a cell
phone adds expense to annoyance.

11 *Soppet v. Enhanced Recovery Co., LLC*, 679 F.3d 637, 638 (7th Cir. 2012).

12 **JURISDICTION AND VENUE**

- 13
14 6. Jurisdiction is proper under 47 U.S.C §227(b); *Mims v. Arrow Fin. Servs.,*
15 *LLC*, 132 S.Ct. 740 (2012), because Plaintiff alleges violations of federal law.
16 7. Venue is proper in the United States District Court for the Southern District of
17 California pursuant to 18 U.S.C. § 1391(b) and 1441(a) because Plaintiff lives
18 in San Diego County, CA, and the events giving rise to Plaintiff’s causes of
19 action against Defendant occurred in the State of California within the
20 Southern District of California and Defendant conducts business in the area of
21 San Diego, California.

22 **PARTIES**

- 23
24 8. Plaintiff is, and at all times mentioned herein was, an individual citizen and
25 resident of the County of San Diego, in the State of California.
26 9. Plaintiff is informed and believes, and thereon alleges, that Defendant
27 Renewable Energy Center, LLC is, and at all times mentioned herein was, a
28 Limited Liability Company (LLC) headquartered in Van Nuys, CA, doing

1 business throughout CA, and at all times mentioned herein was, a “person,” as
2 defined by 47 U.S.C. § 153 (39).

3 10. Plaintiff is informed and believes, and thereon alleges, that “American Pro
4 Energy” is a Los Angeles County registered d.b.a. of Renewable Energy
5 Center, LLC.

6 11. Plaintiff is informed and believes, and thereon alleges, that at all relevant
7 times, Defendant conducted business in the State of California and in the
8 County of San Diego, and within this judicial district.

9
10 **FACTUAL ALLEGATIONS**

11 12. At all times relevant, Plaintiff was a citizen of the State of California.
12 Plaintiff is, and at all times mentioned herein was, “persons” as defined by 47
13 U.S.C § 153 (39).

14 13. Defendant are, and at all times mentioned herein were, “persons” as defined
15 by 47 U.S.C. §153 (39).

16 14. Sometime prior to January 1, 2013, Ms. Stacy was assigned, and became the
17 owner of, a cellular telephone number ending in 6635 from her wireless
18 provider.

19 15. Beginning on or about March 30, 2017, Ms. Stacy received numerous
20 telephone calls on her cellular telephone from Defendant, in which Defendant
21 utilized an automatic telephone dialing system (“ATDS”) as defined by 47
22 U.S.C. § 227(a)(1), using an “artificial or prerecorded voice” as prohibited by
23 47 U.S.C. § 227(b)(1)(A).

24 16. The calls to Ms. Stacy’s cellular telephone number (ending in 6635) from
25 Defendant came from phone number, including but not limited to: (916)
26 241-6500.

27 17. Ms. Stacy received a call on March 30, 2017 at 3:02 PM. The call utilized an
28 prerecorded or artificial voice recording. The pre-recorded voice informed

1 Plaintiff that she could save hundreds on her energy bill. It then asked if this
2 is Miss Stacy, but the computer would mispronounce her name. Plaintiff
3 responded, “yes.” The voice then identified itself as calling from American
4 Pro Energy. Ms. Stacy was then transferred to a live person who identified
5 himself as “Ted.”

6 18. Ms. Stacy asked “Ted” how he got her number. Ted replied that they use a
7 “computer with an auto-dialer” to get their numbers and call potential
8 customers. Ms. Stacy then asked Ted to be removed from their call list and to
9 not call her anymore. Ted apologized, “Sorry Sweetie.”

10 19. Ms. Stacy received another call that same day, on March 30, 2017 at 5:30 PM
11 from (916) 241-6500.

12 20. Ms. Stacy received another call on April 3, 2017 at 3:52 PM from (916)
13 241-6500.

14 21. Ms. Stacy received another call on April 3, 2017 at 3:56 PM from (916)
15 241-6500.

16 22. Ms. Stacy received another call on April 4, 2017 at 9:42 AM from (916)
17 241-6500.

18 23. Ms. Stacy received another call on April 4, 2017 at 9:43 AM from (916)
19 241-6500.

20 24. Ms. Stacy received another call on April 5, 2017 at 4:25 PM from (916)
21 241-6500.

22 25. Plaintiff revoked any consent, if it was ever given, or Defendant mistakenly
23 believed it was given, when she requested to be taken off the call list on
24 March 30, 2017.

25 26. The ATDS used by Defendant has the capacity to store or produce telephone
26 numbers to be called, using a random or sequential number generator.
27
28

1 27. The ATDS used by Defendant also has the capacity to, and does, call
2 telephone numbers from a list of databases of telephone numbers
3 automatically and without human intervention.

4 28. The telephone number Defendant called was assigned to a cellular telephone
5 service for which Plaintiff incurred a charge for incoming calls pursuant to 47
6 U.S.C. § 227 (b)(1).

7 29. Plaintiff at no time provided “prior express consent” for Defendant to place
8 telephone calls to Plaintiff’s cellular telephone with an artificial or
9 prerecorded voice utilizing an ATDS as proscribed under 47 U.S.C. § 227(b)
10 (1)(A).

11 30. Plaintiff had not provided her cellular telephone number to Defendant.
12 Plaintiff was not a customer of Defendant. Plaintiff had no “established
13 business relationship” with defendant, as defined by 47 U.S.C. § 227 (a)(2).

14 31. These telephone calls made by Defendant or their agents were in violation of
15 47 U.S.C. § 227(b)(1).

16 **STANDING**

17 32. Standing is proper under Article III of the Constitution of the United States of
18 America because Plaintiff’s claims state:

- 19 a. a valid injury in fact;
- 20 b. which is traceable to the conduct of Defendant(s);
- 21 c. and is likely to be redressed by a favorable judicial decision.

22 See, *Spokeo, Inc. v. Robins*, 578 U.S. ____ (2016) at 6, and *Lujan v.*
23 *Defenders of Wildlife*, 504 U.S. 555 at 560.

24 33. In order to meet the standard laid out in *Spokeo* and *Lujan*, Plaintiff must
25 clearly allege facts demonstrating all three prongs above.
26
27
28

1 A. ***The “Injury in Fact” Prong***

2 34. Plaintiff’s injury in fact must be both “concrete” and “particularized” in order
3 to satisfy the requirements of Article III of the Constitution, as laid out in
4 *Spokeo (Id.)*.

5 35. For an injury to be “concrete” it must be a *de facto* injury, meaning that it
6 actually exists. In the present case, Plaintiff was called on her cellular phone
7 at least ten times by Defendant. Such calls are a nuisance, an invasion of
8 privacy, and an expense to Plaintiff. *Soppet v. Enhanced Recovery Co., LLC*,
9 679 F.3d 637, 638 (7th Cir. 2012). All three of these injuries are concrete and
10 *de facto*.

11 36. For an injury to be “particularized” means that the injury must “affect the
12 plaintiff in a personal and individual way.” *Spokeo, Inc. v. Robins*, 578 U.S.
13 ___ (2016) at 7. In the instant case, it was plaintiff’s phone that was called
14 and it was plaintiff herself who answered the calls. It was plaintiff’s personal
15 privacy and peace that was invaded by Defendant’s persistent phone calls
16 using an ATDS. Finally, plaintiff alone is responsible to pay the bill on her
17 cellular phone. All of these injuries are particularized and specific to plaintiff,
18 and will be the same injuries suffered by each member of the putative class.

19
20 B. ***The “Traceable to the Conduct of Defendant” Prong***

21 37. The second prong required to establish standing at the pleadings phase is that
22 Plaintiff must allege facts to show that her injury is traceable to the conduct of
23 Defendant(s).

24 38. In the instant case, this prong is met simply by the fact that the calls to
25 plaintiff’s cellular phone were placed either, by Defendant directly, or by
26 Defendant’s agent at the direction of Defendant.

1 C. ***The “Injury is Likely to be Redressed by a Favorable Judicial Opinion”***
2 ***Prong***

3 39. The third prong to establish standing at the pleadings phase requires Plaintiff
4 to allege facts to show that the injury is likely to be redressed by a favorable
5 judicial opinion.

6 40. In the present case, Plaintiff’s Prayers for Relief include a request for
7 damages for each call made by Defendant, as authorized by statute in 47
8 U.S.C. § 227. The statutory damages were set by Congress and specifically
9 redress the financial damages suffered by Plaintiff and the members of the
10 putative class.

11 41. Furthermore, Plaintiff’s Prayers for Relief request injunctive relief to restrain
12 Defendant from the alleged abusive practices in the future. The award of
13 monetary damages and the order for injunctive relief redress the injuries of
14 the past, and prevent further injury in the future.

15 42. Because all standing requirements of Article III of the U.S. Constitution have
16 been met, as laid out in *Spokeo, Inc. v. Robins*, 578 U.S. ____ (2016), Plaintiff
17 has standing to sue Defendant on the stated claims.

18
19 **CLASS ACTION ALLEGATIONS**

20 43. Plaintiff brings this action on behalf of herself and on behalf of all others
21 similarly situated (“the Class” and “Revocation Subclass”).

22 44. Plaintiff represents, and is a member of, the Class, consisting of:

- 23 a. All persons within the United States who had or have a number
24 assigned to a cellular telephone service, who received at least one call
25 using an ATDS and/or an artificial prerecorded voice from
26 RENEWABLE ENERGY CENTER, LLC, b.d.a. AMERICAN PRO
27 ENERGY, or their agents calling on behalf of RENEWABLE
28 ENERGY CENTER, LLC, b.d.a. AMERICAN PRO ENERGY,

1 between the date of filing this action and the four years preceding,
2 where such calls were placed for marketing purposes, to non-
3 customers of RENEWABLE ENERGY CENTER, LLC, b.d.a.
4 AMERICAN PRO ENERGY, at the time of the calls.

5 45. Plaintiff represents, and is a member of, the Revocation Subclass, consisting
6 of:

7 b. All persons within the United States who had or have a number
8 assigned to a cellular telephone service, who received at least one call
9 using an ATDS and/or an artificial prerecorded voice from
10 RENEWABLE ENERGY CENTER, LLC, b.d.a. AMERICAN PRO
11 ENERGY, or their agents calling on behalf of RENEWABLE
12 ENERGY CENTER, LLC, b.d.a. AMERICAN PRO ENERGY, after
13 the persons revoked consent, between the date of filing this action and
14 the four years preceding, where such calls were placed for marketing
15 purposes, to non-customers of RENEWABLE ENERGY CENTER,
16 LLC, b.d.a. AMERICAN PRO ENERGY, at the time of the calls.
17 (“Revocation Subclass”)

18 46. Defendant and their employees or agents are excluded from the Class and
19 Revocation Subclass. Plaintiff does not know the number of members in the
20 Class and Revocation Subclass, but believes the Class and Revocation
21 Subclass members number in the thousands, if not more. Thus, this matter
22 should be certified as a class action to assist in the expeditious litigation of
23 this matter.

24 47. Plaintiff and members of the Class and Revocation Subclass were harmed by
25 the acts of Defendant in at least the following ways: Defendant illegally
26 contacted Plaintiff and the Class and Revocation Subclass members via their
27 cellular telephones thereby causing Plaintiff and the Class and Revocation
28 Subclass members to incur certain cellular telephone charges or reduce
cellular telephone time for which Plaintiff and the Class and Revocation

1 Subclass members previously paid, by having to retrieve or administer
2 messages left by Defendant or their agents, during those illegal calls, and
3 invading the privacy of said Plaintiff and the Class and Revocation Subclass
4 members. Plaintiff and the Class and Revocation Subclass members were
5 damaged thereby.

6 48. This suit seeks only damages and injunctive relief for recovery of economic
7 injury on behalf of the Class and Revocation Subclass and it expressly is not
8 intended to request any recovery for personal injury and claims related
9 thereto. Plaintiff reserves the right to expand the Class and Revocation
10 Subclass definitions to seek recovery on behalf of additional persons as
11 warranted as facts are learned in further investigation and discovery.

12 49. The joinder of the Class and Revocation Subclass members is impractical and
13 the disposition of their claims in the Class action will provide substantial
14 benefits both to the parties and to the Court. The Class and Revocation
15 Subclass can be identified through Defendant's records and/or Defendant's
16 agent's records.

17 50. There is a well-defined community of interest in the questions of law and fact
18 involved affecting the parties to be represented. The questions of law and fact
19 to the Class and Revocation Subclass predominate over questions which may
20 affect individual Class and Revocation Subclass members, including the
21 following:

- 22 i. Whether, within the four years prior to the filing of the
23 Complaint, Defendant made any call(s) (other than a call made
24 for emergency purposes or made with the prior express consent
25 of the called party) to the Class and Revocation Subclass
26 members using any ATDS or an artificial or prerecorded voice to
27 any telephone number assigned to a cellular telephone service;
28



- 1 ii. Whether Defendant called non-customers of Defendant for
- 2 marketing purposes;
- 3 iii. Whether Plaintiff and the Class and Revocation Subclass
- 4 members were damaged thereby, and the extent of damages for
- 5 such violation(s); and
- 6 iv. Whether Defendant should be enjoined from engaging in such
- 7 conduct in the future.

8 51. As a person who received numerous calls from Defendant in which Defendant
9 used an ATDS or an artificial or prerecorded voice, without Plaintiff's prior
10 express consent, Plaintiff is asserting claims that are typical of the Class and
11 Revocation Subclass. Plaintiff will fairly and adequately represent and protect
12 the interests of the Class and Revocation Subclass in that Plaintiff has no
13 interests antagonistic to any member of the Class or Revocation Subclass.

14 52. Plaintiff and the members of the Class and Revocation Subclass have all
15 suffered irreparable harm as a result of the Defendant's unlawful and wrongful
16 conduct. Absent a class action, the Class and Revocation Subclass will
17 continue to face the potential for irreparable harm. In addition, these
18 violations of law will be allowed to proceed without remedy and Defendant
19 will likely continue such illegal conduct. The size of Class and Revocation
20 Subclass member's individual claims causes, few, if any, Class and
21 Revocation Subclass members to be able to afford to seek legal redress for the
22 wrongs complained of herein.

23 53. Plaintiff has retained counsel experienced in handling class action claims and
24 claims involving violations of the Telephone Consumer Protection Act.

25 54. A class action is a superior method for the fair and efficient adjudication of
26 this controversy. Class-wide damages are essential to induce Defendant to
27 comply with federal and California law. The interest of Class and Revocation
28 Subclass members in individually controlling the prosecution of separate

1 claims against Defendant is small because the maximum statutory damages in
2 an individual action for violation of privacy are minimal. Management of
3 these claims is likely to present significantly fewer difficulties than those that
4 would be presented in numerous individual claims.

5 55. Defendant have acted on grounds generally applicable to the Class and
6 Revocation Subclass, thereby making appropriate final injunctive relief and
7 corresponding declaratory relief with respect to the Class as a whole and
8 Revocation Subclass.

9
10 **FIRST CAUSE OF ACTION:**
11 **NEGLIGENT VIOLATIONS OF THE TELEPHONE CONSUMER**
12 **PROTECTION ACT 47 U.S.C. § 227 ET SEQ.**

13 56. Plaintiff incorporates by reference all of the above paragraphs of this
14 Complaint as though fully stated herein.

15 57. The foregoing acts and omissions of Defendant constitutes numerous and
16 multiple negligent violations of the TCPA, including but not limited to each
17 and every one of the above-cited provisions of 47 U.S.C. § 227 et seq.

18 58. As a result of Defendant's negligent violations of 47 U.S.C. § 227 et seq.,
19 Plaintiff and the Class and Revocation Subclass are entitled to an award of
20 \$500.00 in statutory damages, for each and every violation, pursuant to 47
21 U.S.C. § 227(b)(3)(B).

22 59. Plaintiff and the Class and Revocation Subclass are also entitled to and seek
23 injunctive relief prohibiting such conduct in the future.

24 **SECOND CAUSE OF ACTION:**
25 **KNOWING AND/OR WILLFUL VIOLATIONS OF THE TELEPHONE**
26 **CONSUMER PROTECTION ACT 47 U.S.C. § 227 ET SEQ.**

27 60. Plaintiff incorporates by reference all of the above paragraphs of this
28 Complaint as though fully stated herein.

1 61. The foregoing acts and omissions of Defendant constitute numerous and
2 multiple knowing and/or willful violations of the TCPA, including but not
3 limited to each and every one of the above-cited provisions of 47 U.S.C. §
4 227 et seq.

5 62. As a result of Defendant's knowing and/or willful violations of 47 U.S.C. §
6 227 et seq., Plaintiff and each of the Class and Revocation Subclass are
7 entitled to treble damages, as provided by statute, up to \$1,500.00, for each
8 and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. §
9 227(b)(3)(C).

10 63. Plaintiff and the Class and Revocation Subclass are also entitled to and seek
11 injunctive relief prohibiting such conduct in the future.

12
13 **PRAYER FOR RELIEF**

14 64. Wherefore, Plaintiff respectfully requests the Court grant Plaintiff and the
15 Class and Revocation Subclass members the following relief against
16 Defendant:

17
18 **FIRST CAUSE OF ACTION FOR NEGLIGENT VIOLATION OF**
19 **THE TCPA, 47 U.S.C. § 227 ET SEQ.**

20 65. As a result of Defendant's negligent violations of 47 U.S.C. § 227(b)(1),
21 Plaintiff seeks for herself and each Class and Revocation Subclass member
22 \$500.00 in statutory damages, for each and every violation, pursuant to 47
23 U.S.C. § 227(b)(3)(B).

24 66. Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such
25 conduct in the future.

26 67. Any other relief the Court may deem just and proper.
27
28



SECOND CAUSE OF ACTION FOR KNOWING AND/OR WILLFUL VIOLATION OF THE TCPA, 47 U.S.C. § 227 ET SEQ.

68. As a result of Defendant's willful and/or knowing violations of 47 U.S.C. § 227(b)(1), Plaintiff seeks for herself and each Class and Revocation Subclass member treble damages, as provided by statute, up to \$1,500.00 for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

69. Pursuant to 47 U.S.C. § 227(b)(3)(A), injunctive relief prohibiting such conduct in the future.

70. Any other relief the Court may deem just and proper.

TRIAL BY JURY

71. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Respectfully submitted,

Date: April 13, 2017

HYDE & SWIGART

By: s/Kevin Lemieux
Kevin Lemieux
Attorneys for Plaintiff



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1 **Other Attorneys of Record, besides caption page:**

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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Rebecca Stacy, Individually and on behalf of all others similarly situated

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Kevin Lemieux, Esq., Hyde & Swigart 619-233-7770 2221Camino Del Rio S., Ste. 101, San Diego, CA 92108

DEFENDANTS

Renewable Energy Center, LLC d/b/a American Pro Energy

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known) '17CV0755 CAB WVG

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 47 U.S.C. § 227 et seq. ("TCPA") Brief description of cause: Defendant violated Telephone Consumer Protection Act

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 5,000,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 04/14/2017 SIGNATURE OF ATTORNEY OF RECORD s/ Kevin Lemieux

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

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INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit: Renewable Energy Center Places 'Nuisance' Robocalls](#)
